



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/005,682	12/05/2001	Matthew R. Hyre	5356-05	9587

7590 10/28/2005

Emhart Glass Manufacturing Inc.  
89 Phoenix Avenue  
P.O. Box 1229  
Enfield, CT 06082

EXAMINER

LOPEZ, CARLOS N

ART UNIT	PAPER NUMBER
----------	--------------

1731

DATE MAILED: 10/28/2005

Please find below and/or attached an Office communication concerning this application or proceeding.



## UNITED STATES DEPARTMENT OF COMMERCE

## U.S. Patent and Trademark Office

Address: COMMISSIONER FOR PATENTS

P.O. Box 1450

Alexandria, Virginia 22313-1450

APPLICATION NO./ CONTROL NO.	FILING DATE	FIRST NAMED INVENTOR / PATENT IN REEXAMINATION	ATTORNEY DOCKET NO.
---------------------------------	-------------	---	---------------------

10/005,682

12/5/01

Matthew R. Hyre

5356-05

EXAMINER

C. Lopez

ART UNIT

PAPER

1731

20051026

DATE MAILED:

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner for Patents

Response to "Supplemental Appeal Brief"

A Notification of Non-Compliant Appeal Brief was mailed on 4/21/05 and 8/21/05 to applicant's appeal briefs filed on 12/20/04 and 5/23/05, respectively.

Currently, applicant in responding to the notice of non-compliant appeal brief mailed on 8/21/05, provides a "Brief on Appeal (Supplemental to Second Sending). However, the "supplemental" does not meet the requirements set forth in the Notification of Non-Compliant Appeal Brief mailed on 8/21/05. Applicant has not provided a complete new brief as explicitly noted in the third line of the Notification of Non-Compliant Appeal Brief mailed on 8/21/05. To avoid dismissal of the appeal applicant must file a complete new brief in compliance with 37 CFR 41.37 within one month or thirty days from the mailing date of the Notification of Non-Compliant Appeal Brief mailed on 8/21/05 for which extension of time may be granted under 37 CFR 1.136.

Applicant notes that he is not aware of any amendments filed post final action. Enclosed is the final action dated 6/2/04, applicant's signed amendment dated August 18, 2004 for which an advisory action was mailed on 4/21/05 and enclosed herein.

Applicant also argues that the instant claims do not invoke 35 USC 112 6th paragraph. As noted in MPEP 2181 R-2 (I): A claim limitation will be interpreted to invoke 35 U.S.C. 112, sixth paragraph, if it meets the following 3-prong analysis:

- (A) the claim limitations must use the phrase "means for" or "step for";
- (B) the "means for" or "step for" must be modified by functional language; and
- (C) the phrase "means for" or "step for" must not be modified by sufficient structure, material or acts for achieving the specified function.

Claims 1 and 4 have the noted requirement (A), in reciting "a support means for", "first displacement means for" and "second displacement means for." The noted "means for" limitations as recited in claims 1 and 4 are modified by functional language, hence meeting requirement (B). Finally, requirement (C) is met by the instant claims since the noted "means for" limitations recited in claims 1 and 4 are not modified by sufficient structure for achieving the specified function.

Moreover, examples A and B noted in MPEP 2181, invoking 35 U.S.C. 112, sixth paragraph mirror the instant claims.

## Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Carlos Lopez whose telephone number is 571.272.1193. The examiner can normally be reached on Mon.-Fri. 8am - 5pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Steven Griffin can be reached on

571.272.1189. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

CL

  
STEVEN P. GRIFFIN  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 1700



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/005,682	12/05/2001	Matthew R. Hyre	5356-05	9587

7590 06/02/2004

Emhart Glass Manufacturing Inc.  
89 Phoenix Avenue  
P.O. Box 1229  
Enfield, CT 06082

EXAMINER

LOPEZ, CARLOS N

ART UNIT PAPER NUMBER

1731

DATE MAILED: 06/02/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/005,682

Applicant(s)

HYRE ET AL.

Examiner

Carlos Lopez

Art Unit

1731

— The MAILING DATE of this communication appears on the cover sheet with the correspondence address—

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 10 February 2004.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-4 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1, 2 and 4 is/are rejected.
- 7) ☒ Claim(s) 3 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 10 February 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## DETAILED ACTION

### *Claim Rejections - 35 USC § 103*

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

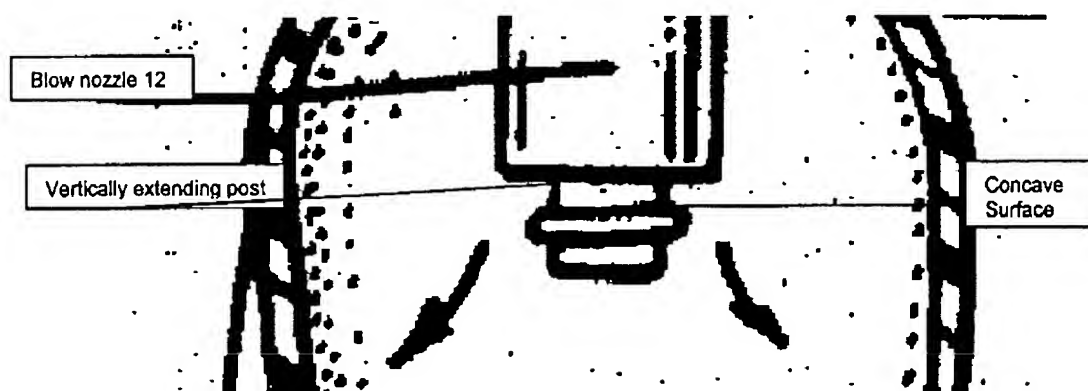
Claims 1-2 and 4 are rejected under 35 U.S.C. 103(a) as being unpatentable over Rodriguez-Wong et al US 5,807,419 ('419) in view of Virog Jr. US 4,348,167 ('167). Rodriguez-Wong discloses a glass-forming machine in order to shape a glass parison in a blowing mold (Abstract). The claimed "a blow head assembly" is '419 element 50. The claimed "support means for supporting said blow head assembly" is deemed as lock 52 of Rodriguez-Wong disclosure. The "first displacement means for displacing said support means to displace said blow head assembly between a remote up position and an advanced down position" is shown by '419 as piston element 56. The claimed blow tube displaceable between an up and down position is shown by Rodriguez-Wong as element 30. The second displacement means for displacing said blow tube from the up position down to the down position is deemed as '419's cylinder piston assembly 20. Rodriguez-Wong is silent disclosing the blowing nozzle with an "air deflector having an annular, concave surface terminating at the top with a vertically extending post for deflecting air traveling axially down the blow tube uniformly radially outwardly." However, Virog Jr discloses a conventional blowing nozzle, element 12, as shown in figure 1 having an annular air deflector with concave surface terminating at the top with a vertically extending post. As noted by Virog, air is

Art Unit: 1731

blown into the mold to force the parison against the inner walls of the mold and/or in order to help maintain the shape of the parison air is blown outwardly against upper edge of the parison (See Col. 1, lines 14-18 and 28-30). Thus in view of the teachings of Virog showing a conventional blow tube means having an annular air deflector with concave surface terminating at the top with a vertically extending post, a person of ordinary skill in the art at the time the invention was made would have been motivated to provide Rodriguez-Wong glass-forming machine with Virog Jr conventional blow tube in order to provide outwardly flow of air to maintain the shape of the parison as taught by Virog Jr.

Additionally, in regards to the claimed supporting frame, it would be expected that Virog Jr. provides a frame to hold the air deflector from falling down.

In regards to claim 2 the vertically extending post would is deemed as coaxial with the axis of the blow tube 12.



Art Unit: 1731

***Allowable Subject Matter***

Claim 3 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

The following is a statement of reasons for the indication of allowable subject matter: The cited prior art fails to disclose "the open bottom of said blow tube has an annular recess and said supporting frame includes an annular flange to be press fit into the annular recess and a plurality of struts connecting the top of the vertically extending post to said annular flange."

***Response to Arguments***

Applicant's arguments filed on 2/10/04 have been fully considered but they are not persuasive.

In response to applicant's arguments against the references individually, one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986). In the instant case the rejection is based on Rodriguez-Wong et al in view of the teachings of Virog Jr. US 4,348,167. Applicant argues that Virog can't be appreciated because it is irrelevant to the instant invention, which is drawn to a glass parison not a plastic parison.

Rodriguez-Wong discloses an I.S machine for the shaping of glass and similar material. Since it is deemed that the term "similar material" includes plastic, one of ordinary skill in the art would appreciate the teachings of Virog, which is drawn to plastic



Art Unit: 1731

moulding. It is also noted that the claimed invention is not specifically limited to treating glass material and even if it were patentability would be based on the apparatus per se and not on the material being worked on.

Applicant argues that Virog's airflow is for shaping purposes as opposed to cooling purposes as instantly claimed. In response to said argument, the fact that applicant has recognized another advantage which would flow naturally from following the suggestion of the prior art (cooling of the blown parison) cannot be the basis for patentability when the differences would otherwise be obvious. See *Ex parte Obiaya*, 227 USPQ 58, 60 (Bd. Pat. App. & Inter. 1985).

Applicant also argues that Virog does not disclose an annular concave surface. Said argument is found unpersuasive. As shown in the figure above, which is a blow up of the nozzle 12, it explicitly shows a concave surface formed by a doughnut shaped ring annular to the vertical extending post.

Applicant also argues that Virog intends to blow air downwardly down the parison as oppose to radially outward. Figures 2-4 of Virog explicitly show arrows depicting the airflow as radially outward.

Additionally, after further review the previous double patenting rejection to claims 1-4 has been withdrawn.

### **Conclusion**

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

Art Unit: 1731

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Carlos Lopez whose telephone number is 571.272.1193. The examiner can normally be reached on Mon.-Fri. 8am - 5pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Steven Griffin can be reached on 571.272.1189. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
STEVEN P. GRIFFIN  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 1700

Application/Control Number: 10/005,682

Page 7

Art Unit: 1731

CL



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
[www.uspto.gov](http://www.uspto.gov)

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/005,682	12/05/2001	Mathew R. Hyre	5356-05	9587

7590 04/21/2005

Emhart Glass Manufacturing Inc.  
89 Phoenix Avenue  
P.O. Box 1229  
Enfield, CT 06082

EXAMINER

LOPEZ, CARLOS N

ART UNIT	PAPER NUMBER
----------	--------------

1731

DATE MAILED: 04/21/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Advisory Action  
Before the Filing of an Appeal Brief**

Application No.

10/005,682

Applicant(s)

HYRE ET AL.

Examiner

Carlos Lopez

Art Unit

1731

**--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

THE REPLY FILED 20 August 2004 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☐ The reply was filed after a final rejection, but prior to filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

a) ☒ The period for reply expires 4 months from the mailing date of the final rejection.

b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**NOTICE OF APPEAL**

2. ☐ The reply was filed after the date of filing a Notice of Appeal, but prior to the date of filing an appeal brief. The Notice of Appeal was filed on \_\_\_\_\_. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

**AMENDMENTS**

3. ☒ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
- (a) ☒ They raise new issues that would require further consideration and/or search (see NOTE below);
- (b) ☐ They raise the issue of new matter (see NOTE below);
- (c) ☒ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
- (d) ☒ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: The proposed amendment adds new claims 5-6 that require further consideration and search. (See 37 CFR 1.116 and 41.33(a)).

4. ☒ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).

5. ☐ Applicant's reply has overcome the following rejection(s): \_\_\_\_\_.

6. ☐ Newly proposed or amended claim(s) \_\_\_\_\_ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).

7. ☒ For purposes of appeal, the proposed amendment(s): a) ☒ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: \_\_\_\_\_.

Claim(s) objected to: 3.

Claim(s) rejected: 1, 2 and 4.

Claim(s) withdrawn from consideration: \_\_\_\_\_.

**AFFIDAVIT OR OTHER EVIDENCE**

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).

9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).

10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

**REQUEST FOR RECONSIDERATION/OTHER**

11. ☐ The request for reconsideration has been considered but does NOT place the application in condition for allowance because: \_\_\_\_\_.

12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08 or PTO-1449) Paper No(s). \_\_\_\_\_

13. ☐ Other: \_\_\_\_\_.

STEVEN P. GRIFFIN  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 1700

*Steven P. Griffin*

**Notice of Non-Compliant  
Amendment (37 CFR 1.121)**

Application No.

10/005,682

Examiner

Carlos Lopez

Applicant(s)

HYRE ET AL.

Art Unit

1731

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

The amendment document filed on 20 August 2004 is considered non-compliant because it has failed to meet the requirements of 37 CFR 1.121. In order for the amendment document to be compliant, correction of the following item(s) is required.

THE FOLLOWING MARKED (X) ITEM(S) CAUSE THE AMENDMENT DOCUMENT TO BE NON-COMPLIANT:

- ☐ 1. Amendments to the specification:
- ☐ A. Amended paragraph(s) do not include markings.
  - ☐ B. New paragraph(s) should not be underlined.
  - ☐ C. Other \_\_\_\_\_.
- ☐ 2. Abstract:
- ☐ A. Not presented on a separate sheet. 37 CFR 1.72.
  - ☐ B. Other \_\_\_\_\_.
- ☐ 3. Amendments to the drawings:
- ☐ A. The drawings are not properly identified in the top margin as "Replacement Sheet," "New Sheet," or "Annotated Sheet" as required by 37 CFR 1.121(d).
  - ☐ B. The practice of submitting proposed drawing correction has been eliminated. Replacement drawings showing amended figures, without markings, in compliance with 37 CFR 1.84 are required.
  - ☐ C. Other \_\_\_\_\_.
- ☒ 4. Amendments to the claims:
- ☐ A. A complete listing of all of the claims is not present.
  - ☐ B. The listing of claims does not include the text of all pending claims (including withdrawn claims)
  - ☒ C. Each claim has not been provided with the proper status identifier, and as such, the individual status of each claim cannot be identified. Note: the status of every claim must be indicated after its claim number by using one of the following status identifiers: (Original), (Currently amended), (Canceled), (Previously presented), (New), (Not entered), (Withdrawn) and (Withdrawn-currently amended).
  - ☐ D. The claims of this amendment paper have not been presented in ascending numerical order.
  - ☒ E. Other: The instant claims do not resemble the claims on record. A copy of the claims on record is being provided.

For further explanation of the amendment format required by 37 CFR 1.121, see MPEP § 714 and the USPTO website at <http://www.uspto.gov/web/offices/pac/dapp/opla/preognotice/officeflyer.pdf>.

**TIME PERIODS FOR FILING A REPLY TO THIS NOTICE:**

1. Applicant is given **no new time period** if the non-compliant amendment is an after-final amendment or an amendment filed after allowance. If applicant wishes to resubmit the non-compliant after-final amendment with corrections, the **entire corrected amendment** must be resubmitted within the time period set forth in the final Office action.
2. Applicant is given **one month**, or thirty (30) days, whichever is longer, from the mail date of this notice to supply the **corrected section** of the non-compliant amendment in compliance with 37 CFR 1.121, if the non-compliant amendment is one of the following: a preliminary amendment, a non-final amendment (including a submission for a request for continued examination (RCE) under 37 CFR 1.114), a supplemental amendment filed within a suspension period under 37 CFR 1.103(a) or (c), and an amendment filed in response to a *Quayle* action.

**Extensions of time** are available under 37 CFR 1.136(a) only if the non-compliant amendment is a non-final amendment or an amendment filed in response to a *Quayle* action.

**Failure to timely respond** to this notice will result in:

**Abandonment** of the application if the non-compliant amendment is a non-final amendment or an amendment filed in response to a *Quayle* action; or

**Non-entry** of the amendment if the non-compliant amendment is a preliminary amendment or supplemental amendment.

STEVEN P. GRIFFIN  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 1700



1731

JW

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of

Matthew R. Hyre

: Art Unit: 1731

Serial No: 10/005,682

: Examiner: Carlos N. Lopez

Filed: December 5, 2001

: Docket No: 5352-05

For: Glass Container Forming Machine

Hon. Commissioner of Patents  
and Trademarks  
Washington, D.C. 20231

I HEREBY CERTIFY THAT THIS CORRESPONDENCE IS BEING  
DEPOSITED WITH THE UNITED STATES POSTAL SERVICE  
AS FIRST CLASS MAIL IN AN ENVELOPE ADDRESSED TO:  
ASSISTANT COMMISSIONER FOR PATENTS, P.O. BOX 1450,  
ALEXANDRIA, VA 22313-1450 ON

AUGUST 18 2004

Sir:

AMENDMENT

Please charge deposit account no. 50-0696 for the fee  
required to extend the time for reply by 30 days until August 21,  
2004.

Responsive to the Office Action dated April 21, 2004,  
Applicant would like to make the following

CLAIM AMENDMENTS

1(original). A blow head mechanism for blowing a parison in a blow mold of an I.S. machine and cooling the blown parison so that a bottle will be formed which can be removed from the blow mold comprising

a blow head assembly,

support means for supporting said blow head assembly,

first displacement means for displacing said support means to displace said blow head assembly between a remote "off" position and an advanced "on" position,

said blow head assembly including a blow tube selectively displaceable between an up position and a down position,

second displacement means for displacing said blow tube from the up position to the down position and then back up to the up position a plurality of times during the time that the blow head assembly is at the "on" position,

said second displacement means including a profiled actuator.

2(original). A blow head mechanism according to claim 1, wherein said profiled actuator is a servomotor.



3(currently amended). A blow head mechanism according to claim 1, wherein the profile of the profiled actuator displaces the cooling tube in coordination with the cooling requirements of blown parison/formed bottle.

4(original). A blow head mechanism according to claim 1, wherein the blown parison has an upper neck portion and a lower body portion, said profiled actuator including a displacement profile which will displace the blow tube from the up position to the location where the upper neck portion meets the lower body portion at an average velocity higher than the average velocity at which the blow tube will be displaced from the location where the upper neck portion meets the lower body portion to the bottom of the blown parison.

5(original). A blow head mechanism according to claim 4, wherein said displacement profile will cause said blow tube to dwell at the bottom of the blown parison for a selected period of time.

6(currently amended). A blow head mechanism according to claim 5 wherein the displacement profile will displace the blow tube from the down position to the location where the upper neck portion meets the lower body portion at said average lower velocity and will displace the blow tube from the location where the upper neck

portion meets the lower body portion to the up position at said higher average velocity.

## Remarks

The claims have been corrected by deleting "the" in claim three and by changing "blow head" to - - blow tube - - in claim 6.

A Terminal Disclaimer to Obviate a Provisional Double Patenting Rejection is enclosed.

The present invention relates to the formation of glass bottles in an I.S. machine. A glass parison is formed in a blank mold and then transferred into a blow mold where it is blown into a bottle. According to claim 1, the blow tube is oscillated a plurality of times while the blow head is in position:


second displacement means for displacing said blow tube from the up position to the down position and then back up to the up position a plurality of times during the time that the blow head assembly is at the "on" position,

Figure 12 discloses the control (structure) which achieves this function.

A patent element defines 1. Structure, for 2. Performing a function , in 3. A particular way. Patentability is not established by comparing structure only. It is established by comparing all three components of a claim element. None of the references teach reciprocating the cooling tube a plurality of times during the time when the blow head is on which is a function never before performed. There is new structure, ie. There is a computer programmed to define this multiple reciprocation, There also is a new function, i.e., to cool the interior wall of the bottle in an up down, down up, up down, down up program. The element claimed above is accordingly patentable over the cited references.

Accordingly claim 1 and dependent claims 2-6 should be presently allowed.

Respectfully submitted,

By   
Spencer T. Smith  
Attorney for Applicants  
Reg. No. 25,926

August 18, 2004  
Emhart Glass  
89 Phoenix Avenue  
P.O. Box 1229  
Enfield, Connecticut 06083-1229

860-814-4052  
860-814-4173 (fax)